

Volume 1
Andrew Acosta

Kirkman vs.
State of California

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE CENTRAL DISTRICT OF CALIFORNIA
3
4 SANDRA KIRKMAN AND CARLOS) 2 :23-cv-07532-DMG-SSC
5 ALANIZ, INDIVIDUALLY AND AS)
6 SUCCESSORS-IN-INTEREST TO)
7 JOHN ALANIZ, DECEASED,)
8)
9 Plaintiffs,)
10)
11 v.)
12)
13)
14 STATE OF CALIFORNIA; RAMON)
15 SILVA; AND DOES 1-10,)
16 INCLUSIVE,)
17)
18 Defendants.)
19)
20)
21)
22)
23)
24)
25)

REMOTE DEPOSITION OF ANDREW ACOSTA

VOLUME 1

North Hollywood, California

Thursday, November 14, 2024

19
20
21
22 Reported by:
23 DENISE MARLOW
24 RPR, CSR No. 11631

25 Job No. 10153285

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1 to it.

2 Q. Okay. To the left or the right? Do you recall?

3 A. To the left.

4 Q. Did the semi brake at all?

5 A. As soon as he hit the guy, yeah, he immediately
6 slammed on his brakes.

7 Q. And then what happened next after the individual
8 was hit and the semi had stopped?

9 A. Well, when the guy had got hit, he kind of like
10 rolled into my lane. So I had to slam on my brakes,
11 trying to avoid hitting him.

12 Q. And were you able to avoid hitting him?

13 A. Yes.

14 Q. Okay. And what did you do after you slammed on
15 your brakes?

16 A. I put our truck into park, and I went to go
17 check on him to see if he was okay.

18 Q. And when you got out of your vehicle to check on
19 him, what did you notice?

20 A. He was bleeding a lot from his head.

21 Q. Was he conscious at all?

22 A. For like the first minute, no.

23 Q. Okay. So after -- so you said for the first
24 minute he wasn't conscious. Was he -- did he ever
25 regain consciousness after that first minute?

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1 A. Yeah, yeah. Yes.

2 Q. And then what happened after that?

3 A. He -- he just got up, like after realizing where
4 he was at, and then just started walking down the side
5 of the freeway again.

6 Q. Did he say anything to you when he got up?

7 A. No.

8 Q. Did he say anything to anybody when he got up?

9 A. No.

10 Q. Other than the blood from his head, did you
11 notice any other injuries?

12 A. No.

13 Q. And so he got up and started walking on the
14 shoulder of the freeway or in the lanes of the freeway?

15 A. The shoulder.

16 Q. Okay. And what did you do after that?

17 A. I -- I started following him because I -- I had
18 a feeling that he was going to possibly do it again,
19 jump in front of traffic.

20 Q. So why, why did you feel that way?

21 A. It was just like a gut feeling that he was
22 trying to kill himself.

23 Q. At any point did you -- after this happened,
24 after you noticed this individual or you saw this
25 individual injured after jumping in front of the semi,

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1 did you call 911 at any point?

2 A. Yes, I did.

3 Q. What did you report? Do you recall?

4 A. Pretty much just somebody getting hit by the

5 truck, and then I guess the operator was asking me,

6 like, what he's doing now, and I'm pretty sure I told

7 her that he's just walking down the freeway. And I was

8 pretty much just staying on the phone with the operator

9 the whole time and explaining that he's continuing to

10 jump in front of the traffic.

11 Q. Did you at all tell the 911 dispatcher that you
12 believe this individual was trying to kill himself?

13 A. I don't remember.

14 Q. Okay. So the individual got up, he's walking
15 down the shoulder of the freeway, and you started
16 following him. Did you have a safety vest on like you
17 do today?

18 A. Yes.

19 Q. Okay. Now, you said you followed him because
20 you had a gut feeling that he was going to try and jump
21 in front of traffic. Is that accurate?

22 A. Yes.

23 Q. And did he, as you followed him, continue to try
24 and jump into traffic at all?

25 A. Yes.

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1 A. Nope. It did not phase him.

2 Q. Did he just get up and continue to walk on the
3 shoulder after he was hit by the van?

4 A. Yes.

5 Q. Now, at any time, I mean, after -- after the
6 individual was -- strike that. Let me reask.

7 So after he was hit by the side of the van, did
8 you continue to follow him?

9 A. Yes.

10 Q. And did he say anything to you at any time?

11 A. Yeah. At some point of me, like, trying to stop
12 him, he just -- I think he was saying like, Just save
13 yourself, just over and over.

14 Q. And that was all he had said to you during the
15 encounter?

16 A. Yes.

17 Q. And what did you take that to mean?

18 A. I just think he -- he didn't want me to, like,
19 get hit by the cars myself.

20 Q. Okay. At any time -- you know, I understand
21 based on your testimony so far that the individual had
22 gotten hit by a semi that you were traveling next to.
23 At any time did you see the individual also try to put
24 his head underneath the tire of a semitruck as --

25 A. Yes.

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1 mean, after getting hit by a truck, I know a lot of
2 people would be hurt and just stayed, you know, down.

3 But he -- I think he was just full of adrenaline, just
4 wanting to kill himself.

5 Q. And that was just based on your personal
6 perception of him while --

7 A. Yes.

8 Q. -- you were following him that day?

9 A. Yes.

10 Q. And do you recall what -- how far you had
11 followed him from where you stopped your truck up and to
12 the time that the CHP officers arrived?

13 A. Oh, man.

14 Q. How many yards -- can you give me how many yards
15 would you estimate?

16 A. Like 150 to 200. It was pretty far.

17 Q. Do you know or can you give me an estimate of
18 how long you had been following him and trying to help
19 him prior to the officers arriving?

20 A. I don't know, like 20 minutes.

21 Q. And do you recall what this individual's
22 physical appearance was, such as his height? What would
23 you estimate that to be?

24 A. Like 5'7", 5'8". He was almost pretty much as
25 tall as I was.

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1 Q. What about his weight?

2 A. He was not thin, a little bit -- like a little
3 bit overweight.

4 Q. Do you recall what he was wearing?

5 A. Shorts.

6 Q. Do you --

7 A. A shirt.

8 Q. Do you know what color?

9 A. No.

10 Q. Do you recall what color his hair was?

11 A. Like a dark brown, maybe black.

12 Q. And what about his age? Did you have any sort
13 of estimate of how old he would have been?

14 A. Maybe like mid to late forties.

15 Q. Okay. Now, as we know, at some point in time
16 CHP officers had arrived on scene. Is that correct?

17 A. Yes.

18 Q. And do you recall seeing an officer arrive on a
19 motorcycle first, or did you see officers arrive in a
20 patrol car first?

21 A. A motorcycle.

22 Q. Okay. Do you recall where the motor officer
23 approached from?

24 A. He was coming from the opposite way of traffic.

25 Q. Was he coming off of an off-ramp; do you know?

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1 A. I don't know if it was an off-ramp or not.

2 Q. Okay. Now, when the motor officer arrived on
3 scene, what did you do?

4 A. I tried to stay with the guy as long as I could
5 until the officer came. And when he had came, he told
6 me to get away from him, to come to the officer -- like,

7 come over here -- because the officer wanted me to get
8 away from the guy. So I went to the officer. I went
9 behind him.

10 Q. Okay. And then after the officer on the
11 motorcycle instructed you to go behind him, did you hear
12 that officer give the individual any sort of commands?

13 A. Not any commands that I remember.

14 Q. Okay. And -- okay. So after you had went
15 behind the officer on the motorcycle, what happened
16 next?

17 A. Can you repeat that one more time?

18 Q. Yeah. So after the officer on the motorcycle
19 instructed you to go behind him and you went behind him,
20 what happened next?

21 A. I think that the -- the individual was, I don't
22 know, kind of like shocked that the cop was there. And
23 I don't really remember exactly, like anything after
24 that. I think more -- like I think more cops had just
25 started like appearing, like pretty soon.

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1 Q. Okay. And go ahead.

2 So after more cops began appearing on scene, did
3 you hear them give the individual any sort of commands?

4 A. Probably just like the typical, like, Get on the
5 ground.

6 Q. And do you recall seeing the individual comply
7 with --

8 A. No.

9 Q. -- those commands?

10 A. No. He did not.

11 Q. Now, at some point -- actually, strike that.

12 So after additional officers arrived on scene,
13 what happened next after commands were given and the
14 individual did not comply? What happened next?

15 A. It seemed like he just started getting more
16 frantic, the more cops showed up. And at one point,
17 pretty much, I think he was, like, circling, like, one
18 of the police vehicles. And that's pretty much, like,
19 when he started -- he went around it at least one more
20 time and started charging at one of the officers.

21 Q. And when you say "charging," do you mean
22 running?

23 A. Yeah.

24 Q. Was he jogging or sprinting towards the officer?

25 A. He wasn't, like, running that fast. But, I

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1 mean, he was, like, approaching him at a good speed.

2 Q. And was that the officer in the patrol vehicle,
3 or was that the motorcycle officer?

4 A. I -- I don't think it was the -- the motorcycle
5 officer.

6 Q. Okay. And after the individual started running
7 at this other officer, what happened next?

8 A. Well, they started to shoot him.

9 Q. Did you see the individual put his hands in his
10 pocket at any time?

11 A. Yes.

12 Q. When was that?

13 A. As he was charging at them.

14 Q. At the officers?

15 A. Yes.

16 Q. And did you see him pull anything out of his
17 pocket?

18 A. No.

19 Q. Do you know what hand -- what pocket he put his
20 hands into?

21 A. I -- the right pocket.

22 Q. Okay. And then after, you know, shots were
23 fired at the individual, what did the officers do after?

24 A. I don't recall.

25 Q. Okay. Do you recall seeing any officers provide

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1 Q. Yeah, I can reask that if it would be helpful.

2 A. I don't remember.

3 Q. Okay. Did you ever hear any of the officers
4 give any verbal warning to the individual that they were
5 going to shoot or use their firearm against him?

6 A. I don't remember.

7 Q. At any time did you ever hear the individual
8 make any verbal threats to anyone?

9 A. I don't think he did.

10 Q. Did he ever make any verbal threats to you?

11 A. No.

12 Q. Did he ever make any -- or strike that.

13 Did you review any documents in preparation for
14 your interview today -- or your deposition today?

15 A. No.

16 Q. Do you remember that you gave a statement both
17 on May 4th, 2022, and an additional statement on
18 September 27th, 2022, to investigators from the
19 Department of Justice?

20 A. Do I remember?

21 Q. Yes. Do you remember that you gave two
22 interviews?

23 A. Yes.

24 Q. And have you not reviewed those statements,
25 then?

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1 A. No.

2 Q. Do you remember saying in your September 2022
3 interview that you did not think it was necessary to
4 shoot the individual on the date of the incident?

5 A. Yes.

6 Q. Why did you -- why did you think that at that
7 time?

8 A. Well, I think I remember telling the
9 investigators for the second interview I had that I
10 believe they should -- they had -- they should have used
11 a less-than-lethal before using their actual gun.

12 Q. Do you recall saying in that September 2022
13 interview that you were shocked that the officers shot
14 the individual?

15 A. I don't remember.

16 Q. Okay. Those are all the questions I have.

17 MS. REYES: I just have a couple follow-up
18 questions.

19

20 FURTHER EXAMINATION

21 BY MS. REYES:

22 Q. Mr. Acosta, do you recall telling DOJ
23 investigators that you saw the individual pull a black
24 object from his pocket when he was running at the
25 officers?

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1 REPORTER'S CERTIFICATION

2

3 I, the undersigned, a certified Shorthand
4 Reporter of the State of California, do hereby
5 certify:

6 That the foregoing proceedings were taken
7 before me at the time and place herein set forth;
8 that the witness in the foregoing proceedings,
9 prior to testifying, was administered an oath; that
10 a record of the proceedings was made by me using
11 machine shorthand which was thereafter transcribed
12 under my direction; that the foregoing transcript is
13 a true record of the testimony given.

14 Further, that if the foregoing pertains to
15 the original transcript of a deposition in a Federal
16 Case, before completion of the proceedings, review
17 of the transcript [X] was [] was not requested.

18

19 IN WITNESS WHEREOF, I have hereunto subscribed
20 my name this 18th day of November, 2024.

21

22 *Denise Marlow*

23

24

Denise Marlow, CSR No. 11631

25